REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

The foregoing amendments incorporate all of the draft amendments proposed on July 24, 2008.

In addition, claims 1, 13, 14 and 18 have been amended to limit the point of attachment of the acetic acid moiety on the bicyclic ring to conform to the elected compound (II).

Furthermore, the Examiner stated that claim 5 is redundant because ring A is defined as benzene in the draft amended claims. However, it is respectfully submitted that claim 5 is not redundant because it is limited to a benzene ring which is not substituted. On the other hand, ring A of claim 1 is a substitutable benzene. Therefore, claim 5 is not redundant on claim 1.

Lastly, the Examiner has maintained the rejection of the claims under 35 USC 103 for reasons of record. This ground of rejection is respectfully traversed as applied to the amended claims.

The present invention aims at obtaining a novel compound particularly having a GPR40 modulating activity, from among the compounds having a treatment effect on diabetes. It is reported that GPR40 is one of the G protein-coupled membrane receptors frequently expressed in pancreatic β-cells and acts as a receptor of long-chain free fatty acid, and free fatty acid promotes, via GPR40, insulin secretion from the pancreatic β-cell. On the other hand, as for PPAR (particularly γ related to diabetes) noted by the cited compound, it is reported that it promotes insulin sensitivity in a tissue. Therefore, GPR40 modulating activity and PPAR modulating activity are different in the point of action in the treatment of diabetes.

Applicants submit that it is not easy even for those of ordinary skill in the art to conceive the compound of the present invention having a GPR40 agonistic activity, from the cited compound having a PPAR agonist activity.

For example, as can be seen from the Rule 132 Declaration submitted at this time, a compound having a GPR40 agonistic activity but not having a PPAR modulating activity exists. Such finding teaches that a GPR40 modulating activity and a PPAR modulating activity are not parallel. In other words, even those of ordinary skill in the art would not consider modifying a

compound (the cited compound) having a PPAR modulating activity in order to afford a compound having a GPR40 modulating activity. There is no motivation to combine WO 99/11255 and WO02/083616.

The Declaration to be submitted at this time supports the Applicants' arguments presented in the response to the previous Office Action, and does not raise a new viewpoint. The Examiner is respectfully requested to take this circumstance into account when considering the present response.

In view of the foregoing, it is believed that each ground of rejection set forth in the Official Action has been overcome, and that the application is now in condition for allowance. Accordingly, such allowance is solicited.

Respectfully submitted,

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